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Betreft Terms of Reference Pilot COI Report Libya

**Directie voor Specialistische
Diensten en Internationale
Samenwerking**

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1. Country information

1.1. Country

1.1.1. What is the status of the new constitution?

1.2. Political developments

1.2.1. What have been the main political developments in Libya since September 2013?

1.2.2. Is there currently a functioning central authority in Libya? If not, can you indicate who controls what area?

1.3. Security situation

Please describe the developments in the security situation in Libya, specifying wherever the situation in each province and, for as many regions as possible, how it evolved. In case you find the situation has changed, can you also describe developments and changes in the security situation in Libya's main cities.

- 1.3.1. Please include a description of the factual situation (where do fights/battles or other kinds of violence take place)?
- 1.3.2. What has been the scale of the fighting and what have been the consequences for the civilian population?
- 1.3.3. Please indicate how many violent incidents have taken place in each province and how many civilian casualties (dead and wounded) there have been in each province in the reporting period.
- 1.3.4. Is the violence random or targeted, and if the latter, who is targeting whom?
- 1.3.5. If you have characterised the situation in a given province as either improving or deteriorating, please indicate specifically how it has improved or deteriorated.
- 1.3.6. Which sections of the armed forces (e.g. special units) were involved in the violence?
- 1.3.7. What factions/individuals/militias were involved?
- 1.3.8. Please describe the (developments of) relations between the various militias/rebel groups.
- 1.3.9. Were people recruited to enlist (or even pressed into service) and if so: where, how, by whom and on what scale?
- 1.3.10. What are the Libyan authorities doing to improve the security situation?
- 1.3.11. How is the disarmament of civilians (militias and others) progressing?
- 1.3.12. What are the developments/status of the *Libya Shield Brigade*?
- 1.3.13. What are the developments/status of the special army unit *Saqaa*?
- 1.3.14. How is the integration of militia members into the security apparatus progressing?
- 1.3.15. What the current security situation at the main Libyan airports and who's in charge of them?

- 1.3.16. Have there been (formal or informal) changes in the organisation of the Libyan security sector? If so, please describe these changes.
- 1.3.17. Do you have information on the partly informally functioning network of employees of the former secret services?
- 1.3.18. What are the developments of the *Warriors' Affairs Commission for Rehabilitation and Development*?

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1.4. Documents

- 1.4.1. Has issuance of the new national identity number been implemented?
 - 1.4.1.1. If so, what are the procedures to obtain a national identity number?
 - 1.4.1.2. Please indicate how many Libyans do/don't have their national identity number by now?
 - 1.4.1.3. Please provide information on how to obtain a national identity number for Libyans living abroad.
- 1.4.2. Have new identity cards been issued?
 - 1.4.2.1. If so, where does one apply for a Libyan identity card and following what procedure?
 - 1.4.2.2. Can you describe the identity card (appearance, validity)?
 - 1.4.2.3. Must the new identity card be applied for and received in person or can this also be done by others? If so, what is the procedure?
 - 1.4.2.4. Please provide information on how to obtain the new national identity card for Libyans living abroad.
- 1.4.3. Have new passports been issued?
 - 1.4.3.1. If so, where does one apply for a new passport and following what procedure?
 - 1.4.3.2. Are fingerprints of the applicant taken upon application?
 - 1.4.3.3. What is the term of validity of the new passport?
 - 1.4.3.4. Must the new passport be applied for and received in person or can this also be done by others? If so, what is the procedure?
 - 1.4.3.5. Please provide information on how to obtain the new national passport for Libyans living abroad.
- 1.4.4. Is the announced computer network for border crossings operational?
 - 1.4.4.1. If so, are embassies abroad connected to the network?
 - 1.4.4.2. Does this network contain biometrical specifics/finger prints/passport photos?
 - 1.4.4.2.1. If so, whose details will be saved in this network? What institution is responsible for the network and what institutions have access to the data?
- 1.4.5. Are government documents like arrest warrants, summons and convictions (civil and military) printed at a government printing office?
 - 1.4.5.1. If so, is there a single government printing office or are there several?
- 1.4.6. Are there legal regulations for drawing up arrest warrants, summons and convictions and if so, are these accessible for the public?
 - 1.4.6.1. Which authorities issue arrest warrants, summons and convictions?
 - 1.4.6.2. Are arrest warrants, summons and convictions signed by the person concerned?
 - 1.4.6.3. Do arrest warrants, summons and convictions bear a seal and/or ink stamp if legally issued by the authorities?
 - 1.4.6.4. Do arrest warrants, summons and convictions mention a case/file number?

- 1.4.6.5. Is it compulsory to specifically mention the fact(-s) a person is suspected/convicted of in arrest warrants, summons and convictions and do these documents mention the relevant article(-s) of law?
- 1.4.7. Do people usually receive a copy/original of their arrest warrant, summon or conviction? Or, can these documents be issued to a family member of the person?

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2. Human rights

In answering the questions below, please pay special attention, where relevant, to the position of minors.

2.1. Legal context

- 2.1.1. Treaties and protocols
- 2.1.2. Constitution
- 2.1.3. Other national legislation
- 2.1.3.1. What is the status of revision of the *Transitional Justice Law*?
- 2.1.3.2. Is the *National Fact-finding and Reconciliation Commission* operational?
- 2.1.3.3. Has any progress been made concerning the 'compensation fund' for victims?
- 2.1.3.4. Is the *Law on Amnesty* implemented (de facto)?
- 2.1.3.5. Please describe the process of renunciation of the Libyan nationality; Where to request, costs, length of procedure, documents of request/decision?
- 2.1.3.6. In case a father loses the Libyan nationality while the mother is (also) Libyan, do the children lose the Libyan nationality?
- 2.1.3.7. Is it de facto possible for a Libyan woman to pass the Libyan nationality on to her children?
- 2.1.3.8. Have there been changes to the Libyan Penal Code?

2.2. Supervision and protection by the authorities

- 2.2.1. How does the police force currently function?
- 2.2.2. In practice, is it possible to obtain protection from the Libyan authorities?
- 2.2.3. Is it possible to report crimes to the police?
- 2.2.3.1. Are reports registered in writing? If so, does the reporting person receive a copy/original of the report?

2.3. Enforcement and violations

- 2.3.1. Have there been developments concerning the *National Council for Civil Liberties and Human Rights*?
- 2.3.2. Freedom of expression
- 2.3.2.1. Have any new efforts been made to limit the freedom of expression of political views/opinions?
- 2.3.2.2. Are journalists still known to feel the need for self-censorship? And, if so, can you indicate the cause of this and if this is the case in the whole country or perhaps more so in certain cities/areas?
- 2.3.2.3. Have there been developments regarding access to and filtering of the internet and social media?
- 2.3.3. Freedom of association and assembly
- 2.3.4. Freedom of religion
- 2.3.4.1. Please describe the current position of religious minorities.

- 2.3.4.2. Have there been incidents of violence against religious locations?
- 2.3.5. Freedom of movement
 - 2.3.5.1. What are the entry and exit procedures in Libya for Libyans?
 - 2.3.5.2. What treatment can Libyans expect upon return to the country after a (long or short) period abroad?
- 2.3.6. Judicial process
 - 2.3.6.1. Please describe criminal proceedings from arrest to (possible) conviction. It's of importance to indicate possible discrepancies between theory and practise.
 - 2.3.6.2. Since September 2013, are more criminal proceedings initiated or do judges still fear for reprisals?
 - 2.3.6.3. What is the status of the few investigations that had been started regarding human rights violations by pro and anti Gaddafi groups?
 - 2.3.6.4. Do the authorities by now screen detainees considering their prosecution or release?
- 2.3.7. Arrests and detention
 - 2.3.7.1. Please provide information on management of (official and non-official) prisons and detention centres.
 - 2.3.7.2. Are currently more prisons and detentions centres under government control?
 - 2.3.7.3. Can you give an indication of the amount of detainees in Libyan prisons and detentions centres?
- 2.3.8. Maltreatment and torture
- 2.3.9. Disappearances
- 2.3.10. Extrajudicial executions and killings
- 2.3.11. Death penalty
 - 2.3.11.1. Have any death penalties been executed by the authorities since September 2013?
- 2.3.12. Blood feuds and honour-related crimes
 - 2.3.12.1. How do the authorities respond if someone requests protection from a blood feud or honour-related crime?
 - 2.3.12.2. Do reconciliation committees exist in Libya and if so, do they mediate in cases of blood feuds and honour-related crimes?
 - 2.3.12.3. Are there organisations (NGOs or others) that offer protection from blood feuds and honour-related crimes?

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2.4. *Position of specific groups*

In answering the questions below, please pay special attention, where relevant, to the position of minors.

- 2.4.1. Gaddafi sympathisers
 - 2.4.1.1. What is the current position of those who supported Gaddafi? Are they being targeted by the authorities or specific groups.
 - 2.4.1.2. What is the position of individuals who worked for the Gaddafi regime or the Gaddafi family? Are they being targeted by the authorities or specific groups.
 - 2.4.1.3. What is the position of Gaddafi's relatives and members of his tribe? Are they being targeted by the authorities or specific groups?

2.4.2. Ethnic minorities

Please provide a brief overview of the current position of ethnic minorities, specifically the Tawerghans and other dark-skinned people.

2.4.3. Women

Please provide a brief overview of the current position of women, with particular attention to the following:

- 2.4.3.1. Can women independently apply for personal identity documents and travel documents or do they need permission and/or the company of a male relative or husband to apply?
- 2.4.3.2. Is it possible for women to file a complaint concerning (sexual) violence by their husband, third parties or government officials and obtain protection?
- 2.4.3.3. Are there state-sponsored or privately run shelters for women seeking to escape violence?

2.4.4. FGM

Please provide any available information on the practise of FGM in Libya.

2.4.5. LGBT (*new unhcr definition?*)

Please provide a brief overview of the current position of homosexuals and transgenders, with attention to possible regional differences:

- 2.4.5.1. Is it the policy of the authorities to actively prosecute homosexuals?
- 2.4.5.2. What is the current position of transgenders?
- 2.4.5.3. Do you have information on developments in social attitudes on the subject?
- 2.4.5.4. Are there any groups, organisations or individuals that defend gay and/or transgender rights?

2.4.6. Unaccompanied minors

- 2.4.6.1. Are there shelters for minors?
- 2.4.6.2. If so, can you describe the facilities and provide information on access to education, quality of medical care, sanitary facilities and food as well as availability of overnight accommodation?
 - 2.4.6.2.1. For which minors are such shelters intended?
 - 2.4.6.2.2. Are there generally enough places available in such shelters?
 - 2.4.6.2.3. How likely is it, given the structure of Libyan society, that a minor will have no individual or institution to look after him/her?
 - 2.4.6.2.4. How are shelters supervised?
 - 2.4.6.2.5. Are there governmental institutions responsible for the care of unaccompanied minors in general and with the care of repatriated unaccompanied minors in particular?
- 2.4.6.2.6. Which NGO's are active in caring for unaccompanied minors and what do their activities consist of?

2.4.7. Conscientious objectors and deserters

Please provide information on developments and possible new legislation on compulsory military service, conscientious objection and desertion.

- 2.4.7.1. When and how are people enlisted and drafted into military service?
- 2.4.7.2. What documents are conscripts required to submit before entering the service (if any) and what documents are provided to them?
- 2.4.7.3. What is the normal duration of compulsory military service? Are there exceptions to the rule?
- 2.4.7.4. Are there provisions to delay, buy off or for being exempted from compulsory military service? If so, how are they applied?
- 2.4.7.5. Are refusal to perform military service and/or desertion statutory offences?

- 2.4.7.5.1. If so, what is the statutory penalty? Are those who refuse to perform military service and deserters prosecuted in practise?
- 2.4.7.5.2. What sentences are imposed in practise?
- 2.4.7.5.3. Is it the policy of the government to actively track down and prosecute deserters and those who refuse to perform military service?

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2.4.8. Palestinians, Syrians and Egyptians

- 2.4.8.1. What legal position do Palestinians, Syrians and Egyptians (who are born and raised in Libya) have concerning residence rights?
- 2.4.8.2. What Libyan documents could/would they have?
- 2.4.8.3. Do they have the right to return to Libya after they have left the country (temporarily)?

3. Refugees and displaced persons

3.1. Displaced persons and refugee surge

- 3.1.1. Please describe the various flows of displaced persons and refugees into and out of their countries of origin?
- 3.1.2. Are there areas in Libya where internally displaced persons are given shelter? If so, please describe the situation in these areas.
- 3.1.3. Are there areas in Libya where displaced persons from abroad are given shelter? If so, based on what legislation and how does it work in practise?

3.2. Reception in the region

- 3.2.1. Are there countries in the region that are known to take in Libyan refugees?
- 3.2.2. If so, what is the situation in these countries?

3.3. Activities of international organisations

- 3.3.1. Please provide a concise overview of activities undertaken by the relevant international organisations with regard to the country of origin.
- 3.3.2. What is UNHCR's position on returning asylum seekers to Libya?

3.4. Repatriation

- 3.4.1. Are there known cases of migrants who (forcibly) returned to Libya and who were maltreated by the authorities upon arrival? If so, how were they maltreated?
- 3.4.2. Are members of specific groups more often maltreated than others? If so, what specific groups are they? Do the kind of documents a person carries upon return make a difference?